

AMENDED IN ASSEMBLY MARCH 1, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1822

Introduced by Assembly Member Irwin
(Coauthors: Assembly Members Atkins and Olsen)

February 8, 2016

An act to add Section 647.01 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1822, as amended, Irwin. California Sex Trade Buyer First Offender Program.

Existing law makes it a misdemeanor to solicit or agree to engage in, or to engage in, an act of prostitution. A misdemeanor is generally punishable by not more than 6 months in a county jail, a fine not exceeding \$1,000, or both that fine and imprisonment in a county jail. Existing law imposes additional penalties, including a higher fine, a longer term of imprisonment, or a suspension of the privilege to operate a motor vehicle, as specified, upon a person who is convicted of committing ~~crime~~ *the crime*, under certain circumstances.

This bill would authorize the court, in addition to any other penalty imposed by law, to require a person who has been convicted of providing, or offering or attempting to provide, money or another thing of value, in exchange for an act of prostitution, to attend and successfully complete a sex trade buyer first offender program approved by the probation department, if an approved program is available. The bill would require the probation department in each county to design and implement an approval and renewal process for sex trade buyer first offender programs in accordance with the requirements of the bill. Among other requirements for these programs, the bill would require

that these programs provide 6 to 8 hours of education for each participant, including information regarding the legal consequences of subsequent offenses, health education, and the effects of the sex trade on sellers of sex and on the community, as specified. The bill would also require the probation department to adopt and implement procedures for approving a new or existing program, and for revoking or suspending approval of an existing program, as specified. By imposing a new duty on county probation departments, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 647.01 is added to the Penal Code,
2 immediately following Section 647, to read:
3 647.01. (a) The court may, in addition to any penalty that may
4 be imposed by other law, require a person who has been convicted
5 of his or her first violation of subdivision (b) of Section 647, for
6 providing, or offering or attempting to provide, money or another
7 thing of value, in exchange for an act of prostitution, to attend and
8 successfully complete a sex trade buyer first offender program
9 approved by the probation department, as described in this section,
10 if an approved program is available.
11 (b) The probation department in each county shall design and
12 implement an approval and renewal process for sex trade buyer
13 first offender programs in accordance with this section. In
14 designing the process, the probation department shall solicit input
15 from criminal justice agencies and sex trafficking-victims² victims
16 advocacy programs. The probation department shall have exclusive
17 authority over the issuance of annual and provisional approval to
18 operate a sex trade buyer first offender program, provided that all
19 approved programs meet all of the following criteria:

1 (1) Are in substantial compliance with applicable laws and
2 regulations.

3 (2) Provide six to eight hours of education for each ~~defendant,~~
4 *participant*, including information regarding all of the following
5 ~~topics:~~ *topics*:

6 (A) The legal consequences of subsequent offenses.

7 (B) Sex buyers' vulnerability to being robbed or assaulted while
8 participating in the sex trade.

9 (C) Health education, describing the elevated risk of HIV and
10 other ~~STD~~ *sexually transmitted disease* infections associated with
11 the sex trade.

12 (D) Effects of the sex trade on sellers of sex, many of whom
13 are victims of sex trafficking, focusing on the numerous negative
14 consequences for sellers of sex, including vulnerability to rape and
15 assault, health problems, drug addiction, and various forms of
16 exploitation.

17 (E) Dynamics of sex trafficking, including how pimps and
18 traffickers recruit, control, and exploit women and children for
19 profit, the experiences of a sex trafficking survivor, either in video
20 or in person, and an explanation of the prevalence of human
21 trafficking in the sex trade.

22 (F) Effects of the sex trade on the community, describing drug
23 use, violence, health hazards, and other adverse consequences.

24 (G) Sexual addictions, focusing on how involvement in
25 commercial sex may be driven by sexual addiction and how to
26 seek help for this condition.

27 (3) Provide adequate reporting requirements to ensure that all
28 participants in the ~~programs~~ *program* may be identified for failing
29 to successfully complete the program.

30 (4) Have been approved by the probation department on an
31 annual basis.

32 (c) The probation department shall adopt and implement
33 procedures for approving a new or existing program, and for
34 revoking or suspending approval of an existing program, including
35 procedures that do all of the following:

36 (1) Require the applicant to complete a written application
37 containing necessary and pertinent information describing the
38 program.

39 (2) Require the program to demonstrate that it possesses
40 adequate administrative and operational capability.

1 (3) Require the department to conduct an onsite review of the
2 program, including monitoring a session to determine that the
3 program adheres to applicable statutes and regulations.

4 (4) Impose all of the following requirements regarding an
5 existing program that the probation department determines is not
6 in compliance with the standards set by the department:

7 (A) Require the probation department to send written notice to
8 the program regarding areas of noncompliance.

9 (B) Require the program to submit a written plan of corrections
10 within 14 days of the date of the written notice of noncompliance.

11 (C) Require the department to review and approve all, or any
12 part of, the plan of correction and notify the program of approval
13 or disapproval in writing, or to consider whether to revoke or
14 suspend approval of the program, and upon the revocation or
15 suspension of approval, to prohibit further referrals of participants
16 to the program.

17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.